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GLOBAL TRADE LAW SERIES

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List of Abbreviations

| | |
|------|---|
| BOT | Built-Operate-Transfer |
| CRTA | Committee on Regional Trade Agreements |
| CTS | Council for Trade in Services |
| DSB | Dispute Settlement Body |
| DSU | Understanding on the Rules Governing the Settlement of Disputes |
| EEC | European Economic Community |
| EU | The European Union |
| FDI | Foreign Direct Investments |
| FTA | Free Trade Agreement |
| GATS | General Agreement on Trade in Services |
| GATT | General Agreement on Tariffs and Trade |
| HS | Harmonized System |
| ILO | International Labour Organization |
| IMF | International Monetary Fund |
| ITC | International Trade Center |
| ITO | International Trade Organization |
| LDCs | Least Developed Countries |
| MRA | Mutual Recognition Agreement |
| NGOs | Non-governmental Organizations |
| OECD | Organization for Economic Cooperation and Development |
| OEEC | Organization for European Economic Cooperation |
| PPP | Public-private-partnership |
| SCM | Agreement on Subsidies and Countervailing Measures |
| SPS | Agreement on Sanitary and Phytosanitary Measures |
| TBT | Agreement on Technical Barriers to Trade |
| TNC | Trade Negotiations Committee |

List of Abbreviations

| | |
|--------|---|
| TRIMs | Agreement on Trade Related Investment Measures |
| TRIPs | Agreement on Trade Related Intellectual Property Rights |
| UNCTAD | United Nations Committee on Trade and Development |
| UNDAP | UN Development Programme |
| US | United States |
| WCO | World Customs Organization |
| WPDR | Working Party on Domestic Regulation |
| WPPs | Working Party on Professional Services |
| WTO | World Trade Organization |

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Introduction

The General Agreement on Trade in Services (GATS) is a multilateral trade agreement, aimed at enhancing trade liberalization in services through the elimination of barriers to such trade and the development and application of legal disciplines supporting the achievement of this end.

More than 150 states already joined GATS, which was concluded in 1994 and came into force in 1 January 1995. The large number of participants reflects its importance, as well as its scope of influence.

GATS is one of the World Trade Organization (WTO) agreements, a group of agreements that were developed under the auspices of GATT-WTO, all aimed at eliminating barriers to international trade, thereby encouraging its development. The WTO agreements refer to different aspects of international trade, including trade in goods, agriculture, subsidies, investments, intellectual property rights and government procurement. To a certain extent, they all share the same ends, a similar legal language and a similar intrinsic logic. However, each of the WTO agreements has its different and unique characteristics, stemming first and foremost from the unique characteristics of the trade aspect regulated by them. These two poles are also reflected by GATS, and are essential for its interpretation and understanding.

The importance of GATS cannot be overestimated: the term 'international trade in services' covers all international trade except for trade in goods. It includes independent services, services embodied in goods and services facilitating trade in goods. International trade in services, that was considered to be of negligible importance in the past, grew considerably in terms of scale and importance in recent decades, and is now estimated to amount for more than 20% of total world trade. International trade in services is shared by developed and developing countries, and its future development seems to hold the key for the future growth and prosperity of the world economy.

Introduction

Although most of the countries realize the importance of international services trade liberalization, the road to achieve this goal is still long. There are many reasons for it. Conflicting interests, political considerations, and above all lack of knowledge and experience, fears from the unknown and from the loss of control, together with mutual suspicions, are the major forces shaping the arena of international trade in services, and are accordingly reflected by the legal framework that forms the basis to it.

This book concentrates on the legal text of GATS, as formed and concluded in 1994. The GATS provisions reflect, to a large extent, the conflict between the forces and interests mentioned above. The result often boils down to ambiguous wording, which makes the application and the interpretation of GATS difficult to handle. The fifteen years of GATS existence produced extensive literature, but only five dispute settlement cases. This small number of cases may be surprising at first glance. However, it may either reflect the relatively narrow scope of commitments under the agreement, due to which its potential is not yet exhausted, or rather a fear of WTO Members to initiate disputes under GATS, which is still a relatively new legal instrument. This book reflects an attempt to navigate through the ocean of literature and interpretative possibilities embodied in GATS. It is aimed at equipping the readers with a road map of interpretative possibilities and dilemmas imposed by GATS. The book suggests a legal analysis of GATS provisions, based on their historical and institutional roots, while at the same time taking into account their future ends and prospects and the due balance of interests involved.

Following GATS since its conclusion in 1995, it is assessed that a long time will pass before it will be thoroughly and comprehensively understood, and before its potential as a decisive legal instrument in the process of future development of international trade in services will be exhausted. It is hoped that this book will contribute to this global effort.

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Chapter 12

Administrative Standards and Recognition of Professional Qualifications

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